CONFERENCE ON DISARMAMENT

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LETTER DATED 11 SEPTEMBER 1996 FROM THE PERMANENT REPRESENTATIVE OF CANADA ADDRESSED TO THE SECRETARY-GENERAL OF THE CONFERENCE TRANSMITTING THE DRAFT TEXT ON THE ESTABLISHMENT OF A PREPARATORY COMMISSION

On behalf of Canada, I should be grateful if you would arrange for document CD/NTB/WP.333/Rev.1 to be circulated as an official document of the Conference on Disarmament.

(Signed) : Mark Moher
Ambassador
Permanent Representative

Draft Text on the Establishment of a Preparatory Commission[1]

1. There is hereby established the Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization (hereinafter referred to as "the Commission") for the purpose of carrying out the necessary preparations for the effective implementation of the Comprehensive Nuclear Test-Ban Treaty, and for preparing for the first session of the Conference of the States Parties to that Treaty.

2. The Secretary-General of the United Nations shall convene the Commission for its first session as soon as possible, but not later than 60 days after the Treaty has been signed by 50 States.

3. The seat of the Commission shall be at the seat of the future Comprehensive Nuclear Test-Ban Treaty Organization.

4. The Commission shall be composed of all States which sign the Treaty. Each State Signatory shall have one representative in the Commission, who may be accompanied by alternates and advisers.

5. (a) The costs of the Commission and its activities, including those of the provisional Technical Secretariat, shall be met annually by all States Signatories, in accordance with the United Nations scale of assessment adjusted to take into account differences between the United Nations membership and States Signatories and timing of signature. The Commission and the provisional Technical Secretariat may also benefit from voluntary contributions.

(b) A State Signatory which has not discharged in full its financial obligations to the Commission within 365 days of receipt of the request for payment shall have no vote in the Commission, until such payment is received. The Commission may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

(c) The Commission shall, between the time the Treaty is opened for signature and the conclusion of the initial session of the Conference of the States Parties, use funds provided by the States Signatories to meet the necessary costs arising from its functions and purposes, including the capital investments and operating and maintenance costs to establish and, pending their formal commissioning, to operate provisionally as necessary the International Data Centre and the International Monitoring System networks provided for in the Treaty. The funding by the Commission shall be regulated in accordance with the provisions of the Comprehensive Nuclear Test-Ban Treaty, adjusted to take into account the organizational

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[1] The provisions on the Commission shall be contained in a resolution annexed to the Final Act adopting the Treaty at a Signatory Conference.

differences between the Comprehensive Nuclear Test-Ban Treaty Organization and the Commission. The Preparatory Commission shall develop the funding procedures in cases not covered by the Treaty.

6. All decisions of the Commission should be taken by consensus. If, notwithstanding the efforts of representatives to achieve consensus, an issue comes up for voting, the Chairman of the Commission shall defer the vote for 24 hours and during this period of deferment shall make every effort to facilitate achievement of consensus, and shall report to the Commission before the end of the period. If consensus is not possible at the end of 24 hours, the Commission shall take decisions on questions of procedure by a simple majority of the members present and voting. Decisions on matters of substance shall be taken by two-thirds majority of the members present and voting. When the issue arises as to whether the question is one of substance or not, that question shall be treated as a matter of substance unless otherwise decided by the Commission by the majority required for decisions on matters of substance.

7. The Commission shall have standing as an international organization, authority to negotiate and enter into agreements, and such other legal capacity as necessary for the exercise of its functions and the fulfilment of its purposes.

8. The Commission shall:

(a) Elect its Chairman and other officers, adopt its rules of procedure, meet as often as necessary and establish such committees as it deems useful;

(b) Appoint its Executive Secretary;

(c) Establish a provisional Technical Secretariat to assist the Commission in its activity and to exercise such functions as the Commission may determine, and appoint the necessary staff in accordance with the principles established for the staff of the Technical Secretariat pursuant to Article II, paragraph 50, of the Treaty. Only nationals of States Signatory shall be appointed to the provisional Technical Secretariat;

(d) Establish administrative and financial regulations in respect of its own expenditure and accounts, providing for, inter alia:

(i) Proper financial control and accounting by the Commission;

(ii) Preparation and approval of periodic financial statements by the Commission;

(iii) Independent audit of the Commission's financial statements;

(iv) Annual presentation of the audited financial statements to a regular session of the plenary of the States Signatory for formal acceptance.

9. The Commission shall make arrangements for the initial session of the Conference of the States Parties, including the preparation of a draft agenda and draft rules of procedure.

10. The Commission shall undertake, inter alia, the following tasks concerning the organization and work of the Technical Secretariat and requiring immediate attention after the entry into force of the Treaty:

(a) Elaboration of a detailed staffing pattern of the Technical Secretariat, including delegation of authority and the process of decision-making;

(b) Assessments of personnel requirements;

(c) Development of staff rules for recruitment and service conditions;

(d) Recruitment and training of technical personnel and support staff;

(e) Organization of office and administrative services.

11. The Commission shall undertake, inter alia, the following tasks on matters of the Organization requiring immediate attention after the entry into force of the Treaty:

(a) Preparation of programme of work and budget of the first year of activities of the Organization;

(b) Preparation of detailed budgetary provisions for the Organization;

(c) Preparation of the scale of financial contributions to the Organization;

(d) Preparation of administrative and financial regulations for the Organization providing for, inter alia:

(i) Proper financial control and accounting by the Organization;

(ii) Preparation and approval of periodic financial statements by the Organization;

(iii) Independent audit of the Organization's financial statements;

(iv) Annual presentation of the audited financial statements to a regular session of the Conference of the States Parties for formal acceptance.

(e) Development of arrangements to facilitate the designation and election in accordance with Article II, paragraph 29 of the Treaty for the first election of the Executive Council.

12. The Commission shall develop, inter alia, the following draft agreements, arrangements and guidelines for approval by the Conference of the States Parties in accordance with the Treaty and Protocol:

(a) Standard model agreements or arrangements, where relevant, to be concluded by the future Organization with States Parties, other States and international organizations;

(b) Agreements or arrangements negotiated in accordance with the above models by the provisional Technical Secretariat with relevant States, in particular with those prospectively hosting or otherwise taking responsibility for International Monitoring System facilities;

(c) The Headquarters Agreement with the Host Country pursuant to Article II, paragraph 56, of the Treaty;

13. The Commission shall undertake all necessary preparations to ensure the operationalization of the Treaty's verification regime at entry into force, pursuant to Article IV, paragraph 1, and shall develop appropriate procedures for its operation, presenting a report on the operational readiness of the regime, together with any relevant recommendations, to the initial session of the Conference of the States Parties.

14. The Commission shall supervise and co-ordinate, in fulfilling the requirements of the Treaty and its Protocol, the development, preparation, technical testing and, pending their formal commissioning, provisional operation as necessary of the International Data Centre and the International Monitoring System, together with assuring appropriate support of the System by certified laboratory facilities and by respective means of communication. Inter alia, the Commission shall:

(a) At its second plenary session, taking into consideration all relevant reports, including those prepared in the course of the CTBT negotiation and by the Conference on Disarmament's Group of Scientific Experts:

(i) Establish an initial plan for the progressive commissioning of the International Data Centre and the International Monitoring System, and for the implementation of related responsibilities;

(ii) Assume responsibility for relevant technical tests, including the work begun under the Group of Scientific Experts' Technical Test 3, and for the development and management of any arrangements required to provide an uninterrupted transition from such technical tests to the future International Monitoring System; and

(iii) Constitute appropriate structures for the regular provision to the Commission of expert and integrated technical advice on monitoring, data communications and analysis issues, and for technical supervision of International Monitoring System and International Data Centre implementation; and

(b) Develop in accordance with the Treaty and Protocol, and prepare for adoption by the initial session of the Conference of the States Parties, operational manuals for:

(i) Seismological Monitoring;

(ii) Radionuclide Monitoring;

(iii) Hydroacoustic Monitoring;

(iv) Infrasound Monitoring; and

(v) The International Data Centre.

15. The Commission shall make all necessary preparations, in fulfilling the requirements of the Treaty and its Protocol, for the support of on-site inspections from the entry into force of the Treaty. It shall, inter alia:

(a) Develop and prepare for the approval of the initial session of the Conference of the States Parties:

(i) An operational manual containing all appropriate legal, technical and administrative procedures; and

(ii) A list of equipment for use during on-site inspections;

(b) Develop a programme for the training of inspectors; and

(c) Acquire or otherwise make provision for the availability of relevant inspection equipment, including communications equipment, and conduct technical tests of such equipment as necessary.

16. The Commission shall develop guidelines and reporting formats for the implementation of confidence-building measures.

17. An indicative list of verification tasks to be carried out by the Preparatory Commission, as specified in paragraphs 12-16, is attached as Annex I to this text.

18. The Commission shall:

(a) Facilitate the exchange of information between States Signatories concerning legal and administrative measures for the implementation of the Treaty and, if requested by States Signatories, give advice and assistance to them on these matters;

(b) Follow the ratification process and, if requested by States Signatories, provide them with legal and technical information and advice about the Treaty in order to facilitate its ratification process; and

(c) Prepare such studies, reports and records as it deems necessary.

19. The Commission shall prepare a final report on all matters within its mandate for the first session of the Conference of the States Parties.

20. Rights and assets, financial and other obligations and functions of the Commission shall be transferred to the Organization at the first session of the Conference of the States Parties. The Commission shall make recommendations to the Conference of the States Parties on this matter, including on effecting a smooth transition.

21. The Commission shall remain in existence until the conclusion of the first session of the Conference of the States Parties.

22. The Commission as an international organization, its staff, as well as the delegates of the States Signatory shall be accorded by the Host Country such legal status, privileges and immunities as are necessary for the independent exercise of their functions in connection with the Commission and the fulfilment of its object and purpose, as provided in Annex II to this text.

ANNEX 1

Indicative List of Verification Tasks of the Preparatory Commission

The following indicative list is illustrative of the verification-related tasks the Preparatory Commission might need to undertake in implementing the relevant provisions of the Treaty and of the resolution establishing the Commission.

Preparatory Commission Text paragraph 12: Draft agreements, arrangements and guidelines

In addition to those items mentioned in the illustrative and explicitly non-exhaustive listing contained in paragraph 12, the following tasks might also be necessary:

- procedures for the conduct of consultation and clarification including for use of data from cooperating national facilities if agreed (Article IV, paragraphs 27 and 28, and paragraphs 29 to 33 of the Treaty);

- procedures for the Technical Secretariat's monitoring, assessment and reporting on the overall performance of the IMS and the IDC (Article IV, paragraph 14 (l) of the Treaty);

- guidelines for CTBT Organization funding of IMS and OSI activities, including for funding of IMS operational and maintenance costs, and for recognition of credit against assessed contributions if agreed (Article IV, paragraphs 19 to 22 of the Treaty);

- confidentiality procedures (Article II, paragraph 7 and Article IV, paragraph 8 of the Treaty).

For those items already specifically listed under paragraph 12, it is envisaged that verification agreements or arrangements (either generic model agreements or arrangements, or the draft agreements or arrangements negotiated with states in accordance with these models) would include, pursuant to Part I, Section A of the Protocol to the Treaty:

- procedures for specifying a particular state's acceptance pursuant to the CTBT of responsibility for particular monitoring facilities;

- responsibilities for operation, maintenance and upgrading in accordance with the Operational Manuals;

- procedures to be followed in establishment of new or upgrading of existing facilities, or for more substantive changes to IMS facilities;

- procedures for temporary arrangements which might apply (Article IV, paragraph 26 of the Treaty);

- provisions for funding IMS activities and data transmission (Article

IV, paragraph 22 of the Treaty;

- assistance to the Organization in inspecting an area beyond the jurisdiction or control of any State (Part II, paragraph 107 of the Protocol to the Treaty); or,

- availability of OSI equipment from a State Party, and for the maintenance and calibration of such equipment (Part II, paragraph 40 of the Protocol to the Treaty).

Preparatory Commission Text paragraph 13: Preparatory Commission Verification Regime Responsibilities

The report referred to in this paragraph reflects a negotiating understanding that the task of compiling such a report - implicit in Article II, paragraph 26 (h) of the Treaty - would be explicitly mentioned in the resolution establishing the Preparatory Commission. The report and associated recommendations from the Commission will be essential prerequisites for the initial Conference of States Parties to take the steps necessary to formalise the establishment of the IMS and other elements of the treaty's verification regime. The Preparatory Commission would as a consequence need, inter alia, to:

- develop recommendations for any changes to the IMS facility lists which experience during the PrepCom may dictate be put to the initial Conference of States Parties; and,

- agree on related recommendations, including where relevant recommendations relating to the deployment of particular technologies and aspects thereof such as noble gas (Part I, paragraph 10 of the Protocol to the Treaty).

Preparatory Commission Text paragraph 14: Preparatory Commission IMS Preparation Responsibilities

This chapeau includes, inter alia, references to the responsibility of the Preparatory Commission for families of tasks related to:

- the establishment of international communications channels for the transmission and receipt of IMS data and reporting products (Article IV, paragraph 14 (a) of the Treaty); and,

- developing procedures and a formal basis for the provisional operation and funding of the provisional IMS.

Preparatory Commission Text paragraph 14 (b): development of Operational Manuals

Drafts of all Operational Manuals, approved by the PrepCom, are required to be adopted by the initial Conference of the States Parties (Article II, paragraph 26 (h) of the Treaty). The compilation of the Operational Manual for each monitoring technology will require the Preparatory Commission to develop, spell out and approve all necessary technical and operational

detail required to ensure the effective operation of the International Monitoring System, inter alia:

- the technical specifications and operational requirements for the relevant facilities in each global monitoring network (Part I, paragraphs 2, 7, 8, 10, 11, 13 and 14 of the Protocol to the Treaty);

- procedures for the provision of data to the IDC, including transmission formats and modalities (Part I, paragraphs 6, 8, 9, 12 and 14 of the Protocol to the Treaty);

- procedures for facility security and for data authentication (Part I, paragraph 4 of the Protocol to the Treaty);

- procedures for checking of monitoring facility equipment and communications links by the Technical Secretariat, and for facility certification (including for cooperating national facilities and for their designation as such) (Article IV, paragraphs 27 and 28 of the Treaty and Part I, paragraph 4 of the Protocol to the Treaty);

Preparatory Commission Text paragraph 14 (b)(ii): Operational Manual for Radionuclide Monitoring

In addition to the generic points listed above, the Operational Manual for Radionuclide Monitoring will require the Preparatory Commission to develop:

- procedures for the processing and handling of samples and associated data flowing from monitoring facilities (Part I, paragraph 11 of the Protocol to the Treaty);

- specifications and procedures for the certification and ongoing calibration of laboratories used by the CTBTO in support of the radionuclide monitoring network (Part I, paragraph 11 of the Protocol to the Treaty);

- special procedures for the transmission of samples to certified laboratories, for additional analysis, and for their storage or archiving as appropriate (Part I, paragraph 11 of the Protocol to the Treaty);

- procedures for the integration of relevant meteorological data if appropriate (Part I, paragraph 9 of the Protocol to the Treaty); and,

- guidelines for the striking of contracts with specific certified laboratories to provide for fee-for-service analysis of samples (Part I, paragraph 11 of the Protocol to the Treaty).

Preparatory Commission Text paragraph 14 (b)(iii): Operational Manual for Hydroacoustic Monitoring

In addition to generic points listed above, in order to prepare the Operational Manual for Hydroacoustic Monitoring, the Preparatory Commission will need to:

- develop the different technical specifications and operational requirements for the two different types of facilities envisaged (hydrophone stations and T-phase stations) (Part I, paragraph 13 of the Protocol to the Treaty);

- develop procedures for the storage or archiving IMS data at the monitoring station if so decided.

Preparatory Commission Text paragraph 14 (b)(v): Operational Manual for the International Data Centre

In developing the Operational Manual for the International Data Centre and producing its content, the Preparatory Commission will need to:

- develop the procedures to be used by the IDC in receiving, collecting, processing, analysing, reporting on and archiving data from the IMS, and for carrying out its agreed functions, in particular for the production of standard reporting products and for the performance of the standard range of services to be offered to States Parties (Part I, paragraphs 16 and 17 of the Protocol to the Treaty and passim);

- in this context, it will need to give special attention to developing:

  - agreed standard event screening criteria and related operational procedures and formats in accordance with Protocol provisions (Part I, paragraphs 17 and 18 (b) of, and Annex 2 to the Protocol to the Treaty);

  - agreed formats and procedures for assisting States Parties with expert technical analysis (Part I, paragraph 20 (c) of the Protocol to the Treaty);

  - specification of the volumes and formats of data services to be provided by the IDC to States Parties at no cost (Part I, paragraph 20 of the Protocol to the Treaty), and procedures for the recovery of costs from States Parties requesting products or services in excess of these specifications;

  - guidelines for the establishment of national event screening procedures (Part I, paragraph 21 of the Protocol to the Treaty);

  - procedures for the provision of technical assistance to individual States Parties (Part I, paragraph 22 of the Protocol to the Treaty); and,

  - procedures for monitoring and reporting on the operational status of the International Monitoring System (Part I, paragraph 23 of the Protocol to the Treaty).

Preparatory Commission Text paragraph 15: On-Site Inspection

The Treaty and Protocol text are separately explicit that the Operational Manual for CSI and the list of approved inspection equipment must be approved by the Conference of States Parties at its initial session (Part II, paragraph 13 of the Protocol to the Treaty, Article II, paragraph 26 (h) of the Treaty and Part II, paragraph 31 of the Protocol to the Treaty).

In order to compile the Operational Manual for OSI, the Preparatory Commission will in all likelihood need to develop or consider, inter alia:

- procedures and formats for the nomination and designation of inspectors and inspection assistants (Part II, paragraphs 14 to 25 of the Protocol to the Treaty);

- procedures for the training and qualification of inspectors;

- procedures and formats for designating, recording and consulting on points of entry (Part II, paragraphs 32 to 34 of the Protocol to the Treaty);

- procedures for use of non-scheduled aircraft and agreement on routings (Part II, paragraph 35 of the Protocol to the Treaty);

- a list of core and auxiliary inspection equipment and detailed specifications therefor; procedures for documentation, and sealing to authenticate certification of inspection equipment; and procedures to calibrate, maintain, protect and retain custody over the approved inspection equipment (Part II, paragraphs 36 to 40 of the Protocol to the Treaty);

- formats and communications procedures for OSI requests, mandates and notifications, and procedures for drawing up the inspection mandate (Part II, paragraphs 35 and 41 to 43 of the Protocol to the Treaty);

- procedures for the reimbursement of inspected State Party costs associated with OSI (including for the itemisation of expenses and of payments) and for other administrative arrangements (Part II, paragraphs 11 to 13 of the Protocol to the Treaty);

- procedures for the checking, and if necessary, storing of inspection equipment at point of entry (Part II, paragraph 51 of the Protocol to the Treaty);

- procedures covering OSI team safety and health, and confidentiality issues (Part II, paragraph 60 (h) of the Protocol to the Treaty);

- procedures related to the implementation of the inspected States Parties' rights during the OSI (Part II, paragraph 61 of the Protocol to the Treaty);

- procedures for communications by the inspection team, including for the due approval and certification of communications equipment (Part

II, paragraph 62 of the Protocol to the Treaty);

- procedures for participation of observers (nomination, acceptance, non-acceptance, and notifications) (Article IV, paragraph 61 of the Treaty and Part II, paragraphs 63 - 68 of the Protocol to the Treaty);

- procedures for implementation of inspection activities and techniques in the conduct of an OSI (Part II, paragraphs 69 and 70 of the Protocol to the Treaty);

- procedures for overflights and the use of inspection equipment during overflights (Part II, paragraphs 71 to 85 of the Protocol to the Treaty)

- procedures for the collection, handling and analysis of samples as per the requirements of the Treaty, including relevant scientific criteria and guidelines (Part II, paragraphs 97 - 104 of the Protocol to the Treaty);

- procedures for the certification of laboratories designated to perform different types of OSI-related analysis (Part II, paragraph 103 of the Protocol to the Treaty);

- procedures for inspection of areas beyond the jurisdiction or control of any state (Part II, paragraphs 105 to 108 of the Protocol to the Treaty); and,

- formats for OSI team's preliminary findings report (Part II, paragraph 109 of the Protocol to the Treaty) and formats and procedures for handling the inspection report (Article IV, paragraphs 62 to 64 of the Treaty).

- procedures for storing and handling the OSI data and samples after the completion of the inspection.